

Court of Appeals, State of Michigan

ORDER

Sami Abu Farha v Ben Nakash

Docket No. 274331

LC No. 04-421307-CH

Michael J. Talbot
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

The motion for immediate consideration is GRANTED.

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2)(a) is DENIED for lack of merit in the grounds presented. The claim of appeal from the August 31, 2006 judgment and the October 24, 2006 order denying plaintiff's motion for a judgment notwithstanding the verdict, or a new trial, is, nevertheless, DISMISSED for lack of jurisdiction. When the circuit court granted a partial, new trial to defendants, the finality of the August 2006 judgment was vitiated as the claims to be retried were no longer disposed of and the rights and liabilities of the parties were no longer adjudicated. MCR 7.202(6)(a)(i), 7.203(A)(1), and 7.204(A)(1)(b). See also *Children's Hosp v Auto Club Ins Ass'n*, 450 Mich 670, 677; 545 NW2d 592 (1996) (final order may only be found after the circuit court issues an order or a series of orders that establish liability and provide a remedy for the situation). If appellant still wants to appeal the August 2006 judgment before the entry of the final order, he must file a delayed application for leave to appeal. MCR 7.203(B)(1) and 7.205(F)(1).

The motion to waive the requirements of MCR 7.209 is GRANTED.

The motion for stay is DENIED.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 28 2007

Date

Sandra Schultz Mengel
Chief Clerk